

**Senate File 2291 - Reprinted**

SENATE FILE 2291  
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO SSB 3135)

(As Amended and Passed by the Senate February 18, 2010)

**A BILL FOR**

1 An Act relating to special education rights and duties and  
2 to the related duties and operations of the department of  
3 education and local school boards.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 256B.2, subsection 1, paragraph a, Code  
2 Supplement 2009, is amended to read as follows:

3 a. *"Children requiring special education"* means persons under  
4 twenty-one years of age, including children under five years of  
5 age, who have a disability in obtaining an education because  
6 of a head injury, autism, behavioral disorder, or physical,  
7 mental, communication, or learning disability, as defined by  
8 the rules of the department of education. If a child requiring  
9 special education reaches the age of twenty-one during an  
10 academic year, the child may elect to receive special education  
11 services until the end of the academic year.

12 Sec. 2. Section 256B.3, Code 2009, is amended by adding the  
13 following new subsection:

14 NEW SUBSECTION. 14A. To submit copies of all reports the  
15 division provides to the United States department of education  
16 under part B of the federal Individuals with Disabilities  
17 Education Act, as amended, including but not limited to any  
18 report concerning disproportionate representation in special  
19 education based on race or ethnicity, to the general assembly  
20 on the date each such report is provided to the United States  
21 department of education.

22 Sec. 3. Section 256B.6, Code 2009, is amended to read as  
23 follows:

24 **256B.6 Parent's or guardian's duties — review.**

25 1. When the school district or area education agency has  
26 provided special education services and programs as provided  
27 herein for any child requiring special education, either  
28 by admission to a special class or by supportive services,  
29 it shall be the duty of the parent or guardian to enroll  
30 ~~said~~ the child for instruction in such special classes or  
31 supportive services as may be established, except in the  
32 event a doctor's certificate is filed with the secretary  
33 of the school district showing that it is inadvisable for  
34 medical reasons for the child requiring special education to  
35 receive the special education provided; all the provisions

1 and conditions of chapter 299 ~~and amendments thereto~~ shall  
2 be applicable to this section, and any violations shall be  
3 punishable as provided in ~~said~~ chapter 299.

4 2. A child, or the parent or guardian of the child, or the  
5 school district in which the child resides, may obtain a review  
6 of an action or omission of ~~state or~~ local authorities pursuant  
7 to the procedures established by the state board of education  
8 on the ground that the child has been or is about to be:

9 ~~1.~~ a. Denied entry or continuance in a program of special  
10 education appropriate to the child's condition and needs.

11 ~~2.~~ b. Placed in a special education program which is  
12 inappropriate to the child's condition and needs.

13 ~~3.~~ c. Denied educational services because no suitable  
14 program of education or related services is maintained.

15 ~~4.~~ d. Provided with special education which is insufficient  
16 in quantity to satisfy the requirements of law.

17 ~~5.~~ e. Assigned to a program of special education when the  
18 child does not have a disability.

19 3. When a child requiring special education attains the  
20 age of majority or is incarcerated in an adult or juvenile,  
21 state or local, correctional institution, all rights accorded  
22 to the parent or guardian under this chapter transfer to the  
23 child except as provided in this subsection. Any notice  
24 required by this chapter shall be provided to both the child  
25 who has reached the age of majority or is incarcerated in an  
26 adult or juvenile, state or local, correctional institution,  
27 and the parent or guardian. If rights under this chapter have  
28 transferred to the child and the child has been determined  
29 to be incompetent by a court or determined unable to provide  
30 informed educational consent by a court or other competent  
31 authority, then rights under this chapter shall be exercised by  
32 the person who has been appointed to represent the educational  
33 interest of the child. The director of the department of  
34 education may establish standards for determining whether  
35 a public agency, as defined in section 28E.2, is competent

1 to determine whether a child is unable to provide informed  
2 educational consent, and the procedures by which such  
3 determination shall be made and reviewed.

4 4. Notwithstanding section 17A.11, the state board of  
5 education shall adopt rules for the appointment of an impartial  
6 administrative law judge for special education appeals. The  
7 rules shall comply with federal statutes and regulations.

8 Sec. 4. Section 256B.8, unnumbered paragraph 2, Code 2009,  
9 is amended to read as follows:

10 An area education agency director of special education may  
11 request approval from the department of education to continue  
12 the special education program of a person beyond the ~~person's~~  
13 ~~twenty-first birthday~~ period specified in section 256B.2,  
14 subsection 1, paragraph "a", if the person had an accident or  
15 prolonged illness that resulted in delays in the initiation of  
16 or interruptions in that person's special education program.  
17 Approval may be granted by the department to continue the  
18 special education program of that person for up to three years  
19 or until the person's twenty-fourth birthday.

20 Sec. 5. Section 256B.11, Code 2009, is amended to read as  
21 follows:

22 **256B.11 Program plans.**

23 1. Program plans submitted to the department of education  
24 pursuant to section 273.5 for approval by the director of the  
25 department of education shall establish all of the following:

26 ~~1-~~ a. That there are sufficient children requiring special  
27 education within the area.

28 ~~2-~~ b. That the service or program will be provided by the  
29 most appropriate educational agency.

30 ~~3-~~ c. That the educational agency providing the service or  
31 program has employed qualified special educational personnel.

32 ~~4-~~ d. That the instruction is a natural and normal  
33 progression of a planned course of instruction.

34 ~~5-~~ e. That all revenue raised for support of special  
35 education instruction and services is expended for actual

1 delivery of special education instruction or services.

2 6. f. Other factors as the state board may require.

3 2. Notwithstanding subsection 1 and section 273.5,  
4 subsection 6, the director of the department of education may  
5 authorize the area education agency to submit a statement  
6 assuring that the requirements of subsection 1 are satisfied  
7 in lieu of submitting a special education instructional and  
8 support program plan.

9 Sec. 6. Section 256B.15, subsection 7, Code 2009, is amended  
10 to read as follows:

11 7. The area education agencies shall transfer to  
12 the department of ~~education~~ human services an amount  
13 equal to ~~eighty-four percent~~ the nonfederal share of the  
14 payments to be received from the medical assistance program  
15 ~~provided~~ pursuant to chapter 249A. The nonfederal share  
16 amount shall be transferred to the medical assistance account  
17 prior to claims payment. This requirement does not apply to  
18 medical assistance reimbursement for services provided by an  
19 area education agency under part C of the federal Individuals  
20 With Disabilities Education Act. Funds received under this  
21 section shall not be considered or included as part of the area  
22 education agencies' budgets when calculating funds that are to  
23 be received by area education agencies during a fiscal year.

24 Sec. 7. Section 257.11, subsection 8, Code Supplement 2009,  
25 is amended to read as follows:

26 8. *Pupils ineligible.* A pupil eligible for the weighting  
27 plan provided in section 256B.9 is not eligible for  
28 supplementary weighting pursuant to this section unless it  
29 is determined that the course generating the supplemental  
30 weighting has no relationship to the pupil's disability. A  
31 pupil attending an alternative program or an at-risk pupils'  
32 program, including alternative high school programs, is not  
33 eligible for supplementary weighting under subsection 2.

34 Sec. 8. STATE MANDATE FUNDING SPECIFIED. In accordance  
35 with section 25B.2, subsection 3, the state cost of requiring

1 compliance with any state mandate included in this Act shall  
2 be paid by a school district from state school foundation aid  
3 received by the school district under section 257.16. This  
4 specification of the payment of the state cost shall be deemed  
5 to meet all of the state funding-related requirements of  
6 section 25B.2, subsection 3, and no additional state funding  
7 shall be necessary for the full implementation of this Act  
8 by and enforcement of this Act against all affected school  
9 districts.